



David B. Cohen  
Mayor

## CITY OF NEWTON, MASSACHUSETTS

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Public Hearing Date:	March 9, 2004
Land Use Action Date:	May 4, 2004
Board of Aldermen Action Date:	May 17, 2004
90-Day Expiration Date:	June 7, 2004

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development  
Nancy Radzevich, Chief Planner  
Alexandra Ananth, Planner

DATE: March 5, 2004

SUBJECT: Petition #112-04 of NANCY I. WOLFE for a SPECIAL PERMIT/SITE PLAN APPROVAL to locate an accessory apartment on the third floor of an existing single-family dwelling at 23 FOREST AVENUE, Ward 3, WEST NEWTON, on land known as Sec 32, Blk, 1, Lot 12, containing 25,460 sf of land, in a district zoned SINGLE RESIDENCE 2.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen, the Mayor, and the public with technical information and planning analysis, which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information, which will be presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

### **I. ELEMENTS OF THE PETITION**

The subject property is located at 23 Forest Avenue, in the West Newton Hill section of Newton. The site consists of a 25,460 sq. ft. parcel improved with a 2½-story Victorian

style house circa 1870. The petitioner is requesting a special permit to establish an accessory apartment that will be constructed by renovating the existing third floor attic in the petitioner's single-family residence. According to plans, the proposed accessory apartment will be approximately 769 sq. ft. and is entirely within the existing structure; the principal residence is approximately 3,493 sq. ft. including the third floor. The Chief Zoning Code Official has reviewed this petition and has made a zoning determination in his memorandum dated March 2, 2004 (*SEE ATTACHMENT A*).

## **II. PROJECT BACKGROUND**

An application was filed on November 5, 2003, with the Planning Department for an "as-of-right" accessory apartment at 23 Forest Avenue. The Planning Department and Chief Zoning Code Official performed a Review of Accessory Apartment Petitions (RAAP) and an interior demolition permit was issued for the proposed accessory apartment. Since then, it was determined that the site is located within *Overlay District B*, which imposes additional criteria as to lot and building size with respect to accessory apartments. While the subject lot size exceeds the required minimum, *the petitioner's structure has a building size of 3,493 sq. ft. which is less than the minimum building size of 3,600 sq. ft. that is required for an as of right accessory apartment in Overlay District B*. As a result, the petitioner is now seeking a special permit for an accessory apartment in a building greater than 2,600 sq. ft, but less than 3,600 sq. ft.

## **III. ZONING RELIEF BEING SOUGHT**

*The petitioner is seeking approval under Section 30-8(d)(2), which allows the Board of Aldermen to grant a special permit for an accessory apartment in an owner-occupied single-family dwelling in a single residence zoning district provided that the terms of Section 30-8(d)(1) and Table 30-8 are met.*

## **IV. SIGNIFICANT ISSUES FOR CONSIDERATION**

*The Board of Aldermen should consider whether the accessory apartment use is appropriate for this site and/or whether the use will adversely affect the neighborhood.*

## **V. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

### **A. Site**

The subject property is located at 23 Forest Avenue, West Newton Hill, Ward 3, and contains approximately 25,460 sq. ft. of land within a Single Residence 2 District. The site is located on the west side of Forest Avenue, and is improved with a 2½-story Victorian-style single-family residence. The existing building is well set back from the street and is located close to the south side lot line. The site is also improved with a small two-car garage accessed by a long driveway off of Forest Avenue. Though the garage is located close to the north lot line an existing evergreen hedge located on the abutters lot provides screening.



**23 Forest Avenue**

B. Neighborhood and Zoning

The subject property is located within an extensive Single Residence District on West Newton Hill, south of the MassTurnpike. The site is located in a Single Residence 2 District but much of the surrounding neighborhood is zoned Single Residence 1. The site is also located in Overlay District B that stretches through much of West Newton Hill.

## VI. ANALYSIS

### A. Technical Considerations

The following is a technical review of the dimensional controls within the Single Residence 2 Overlay B District in relation to the existing and proposed conditions on this site:

Single Residence 2 Overlay B	Required	Proposed 391 Walnut Street
Min. lot area	10,000 sq. ft. as of right 16,000 sq. ft. by special permit	25,460 sq. ft.
Building size	3,600+ sq. ft. as of right 2,600+ sq. ft. by special permit	3,493 sq. ft.
Owner occupied single family dwelling constructed on or before January 1, 1989	Required	Yes
Size of Acc. Apt.	Min. 400 sq. ft, Max 1,200 sq. ft.	768 sq. ft.
Parking	1 stall for the accessory apartment, 3 stalls total	3 stalls
Max. building lot coverage	30%	9.6%.
Min. open space	50%	80%
Max. Bldg. Height	30 ft.	29.8 ft.
Max. height in stories	2.5	2.5
Max. FAR	.3	<.3
Setbacks Front Side (north) Side (south) Rear	25 ft. 7.5 ft. 7.5 ft. 15 ft.	100 ft. + 36 ft. <b>6 ft. (existing)</b> 72 ft.
Frontage	80 ft.	115 ft.

As shown in the table above, the site and proposed accessory apartment meet all the technical requirements of the Zoning Ordinance for a lot created prior to 12/7/53, except for the existing south side setback.

In addition to the requirements listed above, exterior alterations required to meet applicable building, fire, or health codes, are permitted, but not within the setback area. Though the petitioner is proposing to add 2 dormers and an exterior staircase, the alterations proposed are allowable.

Additionally, alterations made within 4 years prior to a special permit application may not be applied towards meeting the requirements of building size, and there may be no more than one accessory apartment per lot. It does not appear that any alterations have been made in the last 4 years and floor plans indicate that this will be the only accessory apartment on this lot. Finally, no lodgers are permitted in either the original dwelling unit or the accessory apartment; the petitioner has submitted an affidavit attesting that there are no lodgers (*SEE ATTACHMENT B*).

**B. Land Use/Zoning**

The subject property is presently located in an extensive Single Residence 2 District. The proposed accessory apartment is to be located within the existing structure and appears to be appropriate for this neighborhood given the size of the house and the size of the lot. Although the existing residence is only 6 ft. from the south side lot line, the addition of the accessory apartment should have little impact on the immediate abutter as this portion of the subject residence is adjacent to the abutters detached garage.

**C. Building, Site Design, Parking, Landscape Screening, and lighting**

The building in which the accessory apartment will be located is an owner-occupied single-family dwelling. According to information obtained from the City Assessor's database, the dwelling was constructed circa 1870 and is Victorian in style.

The proposed apartment will be approximately 769 sq. ft, and is less than 33% of the total building size. In order to convert the third floor into an accessory apartment the petitioner is proposing exterior architectural alterations including the extension of an existing dormer on the front or east elevation with 2 additional windows to match the existing. An additional dormer will be added to the rear or west elevation of the building and an exterior staircase will be added to the north side elevation as the primary staircase for the accessory apartment. None of the proposed additions are within the setbacks. The architectural alterations are generally in keeping with the architectural integrity of the structure and the residential character of the neighborhood. The petitioner's site plan indicates that 5 holly bushes and an arborvitae tree will be relocated to help screen the proposed exterior staircase.

The petitioner's site plan shows 2 parking spaces (in a detached garage) as required for the single family home. An additional parking space for the accessory apartment is located at the end of the driveway between the house and the garage. The Planning Department believes there is sufficient landscape screening on-site and is not requesting any additional landscaping.

The petitioner has not submitted any information on how the proposed primary staircase and landing to the accessory apartment will be illuminated. *Revised plans showing proposed lighting, if any, should be submitted to the Planning Department prior to being scheduled for a Working Session.*

D. Departmental Reviews

The petitioner is not adding impervious surface to the site and no Engineering Review is required.

E. Relevant Site Plan Approval Criteria

1. Convenience and Safety of Vehicular and Pedestrian Movement

No changes are proposed to the existing driveway or parking area and there appears to be sufficient room for three parking spaces within the existing parking area.

2. Provision of off-street loading/parking

The existing driveway adequately provides for the required parking.

3. Screening of Parking Areas and Structures

The parking area for the proposed accessory apartment is setback approximately 20 ft. from the north side of the lot line so as not to impact the adjoining premises. Additionally there is sufficient mature landscaping on the lot line to screen abutting neighbors from the existing garage and parking area.

4. Consideration of Site Design, Including Location and Configuration of Structures and Relationship to Nearby Structures

The relationship of the structures on the site to nearby structures is long established. The petitioner is proposing to make alterations to the existing structure that are generally in keeping with the structure and should be unobtrusive to the neighborhood, as the building is well setback from Forest Avenue and is adequately screened from the abutting residences.

F. Relevant Special Permit Approval Criteria

1. The specific site is an appropriate location for such use

See Comments under Section VI-B.

2. The use as developed and operated will not adversely affect the neighborhood

See Comments under Section VI-B.

3. There will be no nuisance or serious hazard to vehicles or pedestrians

Please see comments under Section VI-E-1.

**VII. SUMMARY**

The subject property is located at 23 Forest Avenue, in the West Newton Hill section of Newton. The site consists of a 25,460 sq. ft. parcel improved with a 2½-story Victorian style house circa 1870. The petitioner is requesting a special permit to establish an accessory apartment on the third floor of the single-family residence. According to plans the proposed accessory apartment will be approximately 769 sq. ft. and is entirely within the existing structure; the principal residence is approximately 3,493 sq. ft. including the third floor.

The means of egress are generally in keeping with the structure and should be unobtrusive to the neighborhood. The lot appears large enough to accommodate the additional unit and the Planning Department does not foresee any impacts on abutting residents or the neighborhood as a result of this accessory apartment.

***Prior to the Working Session, the petitioner should submit lighting details for the entrance to the accessory apartment.***